

A bill for an act

relating to taxation; providing an income tax credit for qualified business ventures in Minnesota; amending Minnesota Statutes 2008, section 290.01, by adding a subdivision.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2008, section 290.01, is amended by adding a subdivision to read:

Subd. 33. **Investment tax credit.** (a) A credit is allowed against the tax imposed by this chapter for a qualified taxpayer's investment in a qualified new business venture. The credit equals 25 percent of the taxpayer's investment made in the business, but may not exceed the least of:

(1) the liability for tax under this chapter, including the alternative minimum taxes in sections 290.091 and 290.0921;

(2) \$50,000 for an individual not part of a partnership; or

(3) \$300,000 for a pass-through entity or C corporation.

(b) For purposes of this subdivision, "qualified taxpayer" means:

(1) an accredited investor within the meaning of Regulation D of the Securities and Exchange Commission, Code of Federal Regulations, title 17, section 230.501(a), whether part of a pass-through entity or not; and

(2) an accredited investor who does not own, control, or hold power to vote 20 percent or more of the outstanding securities of the qualified business venture in which the eligible investment is proposed.

(c) For purposes of this paragraph, "commissioner" means the commissioner of employment and economic development. Qualified taxpayers must apply to the

commissioner for certification. The application must be in the form and made under the procedures specified by the commissioner. The commissioner may provide certificates entitling qualified taxpayers to tax credits under this subdivision. The maximum amount of credits for which the commissioner may issue certificates in each taxable year is \$6,000,000 in fiscal years 2010 to 2011, and \$6,000,000 per biennium in each subsequent biennium. In awarding certificates under this paragraph, the commissioner must award them to qualified taxpayers in the order in which the applications are received. A credit certificate is first available to be applied against a taxpayer's liability in the fourth taxable year after the year in which the certificate is awarded.

(d) Each pass-through entity must provide each investor a statement indicating the investor's share of the credit amount certified to the pass-through entity under paragraph (c) based on its share of the pass-through entity's assets. The credit shall not exceed \$50,000 for each individual part of a pass-through entity.

(e) If the amount of the credit under this subdivision in any taxable year exceeds the limitation under paragraph (a), clause (1), the excess is a credit carryover to each of the ten succeeding years but may not exceed \$50,000 for an individual not part of a partnership and \$300,000 for a pass-through entity or C corporation. The entire amount of the excess unused credit must be carried first to the earliest of the taxable years to which the credit may be carried, and then to each successive year to which the credit may be carried. The amount of the unused credit that may be added under this paragraph may not exceed the taxpayer's liability for tax less the credit for the taxable year.

(f) Unless otherwise provided under the rules of the Department of Employment and Economic Development, a business is a qualified business venture for purposes of this subdivision only if the business satisfies all of the following conditions:

(1) the business has its headquarters in Minnesota;

(2) at least 51 percent of the business's employees are employed in Minnesota;

(3) the business is engaged in, or is committed to engage in:

(i) using advanced technology to add value to a product, process, or service in a qualified high-technology field or qualified biotechnology or medical device field;

(ii) conducting research in and development of a product, process, or service in a qualified high-technology field or qualified biotechnology or medical device field;

(iii) developing a new product, process, or service in a qualified high-technology field or qualified biotechnology or medical device field; or

(iv) qualified green manufacturing;

(4) the business is not engaged in real estate development, insurance, banking, lending, lobbying, political consulting, information technology consulting, wholesale or

retail trade, leisure, hospitality, transportation, construction, ethanol production from corn, or professional services provided by attorneys, accountants, business consultants, physicians, or health care consultants;

(5) the business has fewer than 25 employees, and, if the business has more than five employees, the business must pay at least 75 percent of its employees annual wages of at least 175 percent of the federal poverty guideline for the year for a family of four, and must pay any remaining employees annual wages of at least 110 percent of the federal poverty guideline for a family of four;

(6) the business has not been in operation for more than ten consecutive years;

(7) the business has not received more than \$1,000,000 in investments that have qualified for and received tax credits under this section;

(8) the business has less than \$2,000,000 in annual gross sales receipts;

(9) the business is not a subsidiary or an affiliate of a business that employs more than 100 employees or has gross sales receipts for the previous year of more than \$1,000,000, computed by aggregating all of the employees and gross sales receipts of the business entities affiliated with the business; and

(10) the business has not received private equity investments of more than \$2,000,000.

(g) For purposes of this subdivision, "qualified high-technology field" includes, but is not limited to, aerospace, agricultural processing, alternative energy, environmental engineering, food technology, cellulosic ethanol, information technology, materials science technology, nanotechnology, and telecommunications, but excludes business qualifying under the definitions in paragraphs (h) and (i).

(h) For purposes of this subdivision, "qualified biotechnology or medical device field" means the business of manufacturing, processing, assembling, researching, or developing biotechnology or medical device products, including biotechnology and device products used in agriculture.

(i) For purposes of this subdivision, "qualified green manufacturing" means a business whose primary business activity is production of products, processes, methods, technologies, or services intended to do one or more of the following:

(1) increase the use of energy from renewable sources, as defined in section 216B.1691;

(2) increase the energy efficiency of the electric utility infrastructure system or to increase energy conservation related to electricity use, as provided in sections 216B.2401 and 216B.241;

4.1 (3) reduce greenhouse gas emissions, as defined in section 216H.01, subdivision
4.2 2, or to mitigate greenhouse gas emissions through, but not limited to, carbon capture,
4.3 storage, or sequestration;

4.4 (4) monitor, protect, restore, and preserve the quality of surface waters; and

4.5 (5) expand use of biofuels, including expanding the feasibility or reducing the cost
4.6 of producing biofuels or the types of equipment, machinery, and vehicles that can use
4.7 biofuels.

4.8 **EFFECTIVE DATE.** This section is effective the day following final enactment.